1946

File No. Agri. Debtors Relief II/46
Legal Department

B BRANCH

Subject:—

Rules and Notifications under the Bombay Agricultural Debtors Relief Act, 1939

File No. HG21 · Debtors. Relief II/46

Gen. 194 e.

116 B

Office of the R.L.A.

A revised draft notification is sent herewith.

2. Rule 14.- Existing rule 26 the provisions of which are incorporated in this rule provides that the memornadum of the substance of evidence shall be signed by the Chairman and shall form part of the record. It is presumed that the ommission of this provision in the R.D. draft rule 14 is not intentional; the provision has therefore been retained in the revised rule. Since the revised rule makes it compulsory also for the Chairman to record notes of evidence such notes also form part of the record under the revised rule.

3. Rule 16.- It would not be feasible to require a party as proposed by R R.D. to present his application through an agent duly authorised under the second proviso to section 67 or under section 67A since under those provisions the question of appointment of any agent arises only in relation to proceedings before a Board. Rule 16 has therefore been revised so as to provide for presenting of applications through agents duly authorised in writing and not under the provisions referred to above.

4. Revenue Department draft rule 17(2) and rule 17A correspond to sub-rules (2) and (3) of rule 17 in the revised draft. Although it would be more appropriate to issue executive instructions in the matter. Note to rule 17A as proposed by the Revenue Department has been retained as Note to Rule 17 in view of the R.D. notes at page 176 ante.

5. Rule 21A.- The object of the note proposed to new rule 21A may be carried out by issuing executive instructions. The note has therefore been deleted from the revised draft.

6. Rule 26A of the Revenue Department draft.- Existing rule 26A has been replaced by sub-rule (2) of rule 26A. Subrule(1) of this rule embodies the provisions of R.D. draft rule 26A.

7. R.D. draft rule 28A.- R.D. draft rule 28A classifies the debts and liabilities specified in section 3 into recurring and non-recurring and provides that only the non-recurring debts and liabilities shall be deducted in determinging the market value of the property or assets of a debtor. No such distinction between recurring and non-recurring debts and liabilities has been made in section 50(2) of the Act. That section simply provides that in determining the value of the property or assets of a debtor, the

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amount of the debts mentioned in section 3 shall be deducted. The proposed rule is therefore of doubtful validity and has been accordingly omitted in the revised draft.

8. The proposed Note to rule 29 in the R.D. draft.- There is no specific provision in the Act for fixing any price for the form or charging any fees for taking out copies of entries in the award. It has therefore been omitted in the revised draft.

9. Rule 30B. As pointed out in paragraph 2 of R.L.A's opinion No.4676, dated the 22nd June 1945, section 60(1) of the Provincial Insolvency Act will have to be applied as best as it may for sales under section 68 of the Bombay Agricultural Debtors Relief Act. In the absence of any provision similar to the one contained in section 64 of the latter Act no rules as proposed by R.D. for sales under section 68 can be made. R.D. draft Rule 30B has therefore been omitted in the revised draft.

10.- It is proposed by R.D. to rename Form No.13 as "Register of cases" for "Case Register of Applications", but the appropriate name would appear to be "Register of Applications". Rule 36 has been amended accordingly and a small consequential change has been made in the heading to Form No. 13.

11. Draft rule 41 in the R.D. draft providing for licensing of petition writers is outside the scope of the Act and has been omitted in the revised draft.

12. The new Forms proposed in the R.D. draft have been transposed at the end in the revised draft notification. Forms Nos. 11A and 11B have been revised to make the intentions clear.

13. In view of the amendment of section 78 of the Act, consequential changes are necessary in Form No.22. The revised draft provides accordingly.

Id/- P.N.H.
23/1/46.

Remembrancer of Legal Affairs

U.R. to R.D. No. 638, dated the 24th January 1946.

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Form No. 10.
(see rule 29(3)).

Award under section 55(1) of the Bombay Agricultural Debtors Relief Act, 1939.

Case No. of 194

Whereas/ on an application made under the Bombay Agricultural Debtors Relief Act, 1939, for the adjustment of the debts of resident of (hereinafter referred to as the said debtor), this Board has determined under the provisions of the said Act the total amount of his debt as scaled down under section 52 of the said Act.

And Whereas the said debt does exceed half the value of the immoveable property of the said debtor;

It is hereby directed under sub-section (1) of section 55 of the said Act that.-

(a) *the Primary Land Mortgage Bank at..... Bombay Provincial Co-operative Land Mortgage Bank shall pay the creditor(s) mentioned in the Schedule hereto annexed in cash the amount of debt as stated against his/their naem(s) or if the creditor(s) so desire issue to him/them a bond(s) for the equivalent amount issued by the aforesaid Bank and guaranteed by the Provincial Government, in full satisfaction of all the debts of the said debtor;

(b) the said debtor shall pay to the said Bank a sum of Rs. with interest at the rate notified by Government from time to time in that behalf, under sub-section (1) of section 55 of the said Act from the date on which the said Bank pays the creditor(s) the amount of debt due to him/them or the date on which the bond(s) is/ are issued, as the case may be till the amount of the debt is paid in full by.**..... annual instalments of Rs. each, the first instalment being payable on ;

(c) Rs. shall be paid as Court fee by and Rs. shall be paid as costs by to and

*To be deleted where there is no Primary Land Mortgage Bank.

** Here mention number of annual instalments.

P.T.O.

(d) all the immoveable property of the said debtor, described in collumn 4 of the said Schedule is hereby charged in favour of the said Bank until all the instalments mentioned in paragraph (b) are fully paid up.

Debt Adjustment Baord,.....

Schedule.

Here insert p.7

4-Cs.
M.V.V.
16/7.

R.L.A.'s Office.

A revised draft of form no.10 in place of the one at page 5 is sent herewith. The Revenue Department is requested to verify whether it is suitable and carries out its intention.

Sd/- A.R.Khan,
For Remembrancer of Legal Affairs.

U.R. to R,D. No. 5404 dated the 2nd August 1946.

4-Cs.
M.V.V.
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